

**PSJ14 Janssen Opp Exh 5 – Sterbenz Dep (dep not cited in
appendices)**

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

~~~~~

IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION

Case No. 17-md-2804

Judge Dan Aaron

This document relates to: Polster

The County of Summit, Ohio, et al.  
v. Purdue Pharma L.P., et al.  
Case No. 1:18-OP-45090 (N.D. Ohio)

~~~~~

Videotaped deposition of
GEORGE STERBENZ, M.D.

October 17, 2018

9:05 a.m.

Taken at:

Akron Bar Association
57 South Broadway Street
Akron, Ohio

Renee L. Pellegrino, RPR, CLR

1 Q. Methamphetamine, amphetamine,
2 oxycodone and fentanyl, those are listed here?

3 A. Yes.

4 Q. And the cause of death is "combined
5 methamphetamine and fentanyl toxicity." Do you
6 see that?

7 A. Yes.

8 Q. There's no mention of oxycodone in
9 the cause of death. Do you see that?

10 A. Yes.

11 Q. Can you -- do you have an
12 explanation as to why that is?

13 A. No.

14 Q. Can you tell which of these you were
15 the person who performed the autopsy?

16 A. I can't tell.

17 Q. Would there be a way --

18 A. I can't tell by this document.

19 Q. There would be a way of figuring
20 out, if you wanted to know, whether this was you
21 or one of your other colleagues, right?

22 A. Yes.

23 Q. There was some testimony from
24 Dr. Kohler that, with respect to the fentanyl
25 that's listed, and I think we were talking about

1 2015 documents, it was her understanding that
2 that was largely illicit fentanyl.

3 Do you believe that when you see
4 fentanyl in the toxicology results for 2016,
5 that it is predominantly or almost exclusively
6 illicit fentanyl that's being abused?

7 MS. HERMIZ: Objection to form.

8 A. When you say "illicit fentanyl,"
9 what type of -- in what form are you referring
10 to?

11 Q. You understand that fentanyl is one
12 of those products that can be used, right, in a
13 lawful, FDA-approved medicine, right?

14 MS. HERMIZ: Objection to form.

15 A. Yes. Fentanyl is a -- can be a
16 prescription drug.

17 Q. It can also be used as a street
18 drug, so in an illicit, non-FDA approved
19 medicine that someone could abuse?

20 A. Yes.

21 Q. And when we see fentanyl -- and
22 you're free to look through this document. It's
23 listed many, many times. And based on your
24 expertise and your understanding, do you believe
25 that the fentanyl that's listed in the majority

1 of the overdose deaths in 2016 is illegal,
2 non-prescription fentanyl?

3 MS. HERMIZ: Objection to form.

4 A. So illicit -- illicit fentanyl can
5 be through a -- a duragesic patch prescribed to
6 a patient and the patch is being used
7 improperly. It's being abused or it's being
8 obtained illicitly and used. And illicit
9 fentanyl can also be non-prescription fentanyl,
10 powdered fentanyl, that is -- was outside of any
11 type of clinical use. That's simply a street
12 drug fentanyl. And I think it's safe to say
13 that the majority of the fentanyl drugs are
14 either illicit, powdered fentanyl that was --
15 never had a clinical application, or fentanyl
16 obtained through duragesic patches that were
17 either being abused or were obtained illicitly
18 and are being abused.

19 Q. Okay. And what -- what's the basis
20 for that belief?

21 A. It's -- I believe it to be true. I
22 mean, we can go back and check. We can go look
23 at all these cases and see if any of those are
24 indeed deaths due to fentanyl due to a clinical
25 practice. But I believe that these are probably

1 outside of clinical practice.

2 Q. And how would we -- if, for some
3 reason, we wanted to go back and find out if it
4 was a death associated with clinical practice,
5 how would we do that?

6 A. You'd have to review the cases that
7 were of concern.

8 Q. Understood. But can you -- a little
9 more practical. You know, one way might be to,
10 as is your practice, right, to check the OARRS
11 database? Would that be part of the process?

12 MS. HERMIZ: Objection to form.

13 A. I'm not -- so you're asking, with a
14 specific case, will an OARRS search determine if
15 fentanyl was prescribed to the patient?

16 Q. I'm going to withdraw that question
17 for right now, Doctor. Let me go back to what
18 you said.

19 You said we would have to go back
20 and look at the case file, the information.
21 What information would be in the file or
22 information available to you, if we went back
23 and looked at the medical examiner records,
24 whatever they may be, that would help us
25 determine whether someone whose tox results

1 showed fentanyl was from illicit fentanyl or
2 from clinical practice?

3 A. For example, if -- it would be
4 routine to indicate if drug -- illicit drug
5 paraphernalia was present, if illicit fentanyl
6 powder was found at the scene. So that could be
7 evaluated.

8 Q. Anything else?

9 A. We can see what -- if the individual
10 was using a fentanyl patch, we could see if --
11 if a fentanyl patch was being used.

12 Q. Do you or the investigators collect
13 medical records?

14 A. Yes.

15 Q. You could look at the medical
16 records to the extent that they were collected,
17 right?

18 A. Medical records can be requested and
19 they -- and they are -- once -- if they are
20 obtained, they will be reviewed.

21 Q. And the same would be true for
22 prescription records, right, you could try and
23 find -- get the prescription records and find
24 out if someone had a valid prescription for
25 fentanyl?

1 A. If it was pertinent to determining
2 cause and manner of death, that could be done,
3 or an attempt could be made to -- to obtain
4 prescription records.

5 Q. And you're familiar with the OARRS
6 database?

7 A. Yes.

8 Q. And, generally, what is that?

9 A. The OARRS database is a database
10 of -- it's a listing of patients and
11 prescriptions for controlled substances that's
12 entered by prescribing physicians, and it's a
13 voluntary database, as I understand it. And
14 since I do not prescribe -- prescribe controlled
15 substances, I do not actually report to the
16 OARRS database because I have nothing to report
17 because I don't prescribe controlled substances;
18 but since it's a voluntary database, it's not
19 necessarily comprehensive therefore.

20 Q. Do you ever access it in connection
21 with your work?

22 A. Yes. I can access it if I need to.

23 Q. Do you?

24 A. I do.

25 Q. Why?